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Letter dated 13 May 2015 from the Chair of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

On behalf of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism, I have the honour to submit to the Security Council the document entitled "Implementation of Security Council resolution 2178 (2014) by States affected by foreign terrorist fighters" (see annex).

The Committee would appreciate it if the present letter and its annex were brought to the attention of the members of the Security Council and issued as a document of the Council.

(*Signed*) Raimonda **Murmokaitė**
Chair
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Implementation of Security Council resolution 2178 (2014) by States affected by foreign terrorist fighters

Summary

The present report is the first in a series focusing on the capacity of Member States to respond to the challenges posed by the foreign terrorist fighter threat.

Foreign terrorist fighters pose an acute and growing threat. They increase the intensity, duration and intractability of conflicts and may pose a serious threat to their States of origin, the States they transit and the States to which they travel, as well as States neighbouring zones of armed conflict in which foreign terrorist fighters are active, such as Jordan, that as a result are affected by serious security burdens and often need to commit massive resources to combat the impact, and which are, therefore, themselves victims of terrorism. The threat of foreign terrorist fighters may affect all regions and Member States, even those far from conflict zones. International networks have been established by terrorists and terrorist entities among States through which foreign terrorist fighters and the resources to support them have been channelled back and forth.

In exploring the major risks posed by the foreign terrorist fighter phenomenon, the report assumes that the threat of terrorist acts resulting from a range of terrorist organizations, including, but not confined to, the Islamic State in Iraq and the Levant (ISIL) and the Al-Nusrah Front, is rapidly changing and will not be fully geographically contained; that there appears to be virtually no short-term possibility of ending certain threats; and that a significant longer-term risk will derive from "alumni" foreign terrorist fighters upon their return to their own countries or upon their arrival in third countries.

The report identifies an urgent need to establish effective flows of information at the national and international levels in the implementation of Security Council resolution 2178 (2014), as noted in Security Council resolutions 1373 (2001) and 2178 (2014), and suggests ways in which that can be done. It draws attention to the significant risks faced by small States due to the possible consequences of returning foreign terrorist fighters, and discusses the human rights implications of possible responses. Future reports will discuss ways to address recruitment, the challenges posed by Internet and communications technologies, exit and entry screening, returning foreign terrorist fighters and other issues.

The Counter-Terrorism Committee Executive Directorate has identified an initial 67 Member States most affected by the acute and growing threat posed by foreign terrorist fighters, who are defined in Security Council resolution 2178 (2014) as individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training, including in connection with armed conflict. In reviewing the implementation of resolution 2178 (2014) by the first group of 21 States, the Executive Directorate has identified the following priority measures to be taken by States to prevent the movement of foreign terrorist fighters.

1. Preventing inter-State travel of foreign terrorist fighters

Urgent operational measures are required to prevent travel abroad by citizens and/or residents suspected of attempting to become foreign terrorist fighters. Front-line officers require regularly updated information to conduct effective evidence-based travel risk assessment and screenings. Foreign terrorist fighters routinely use evasive travel patterns, or "broken travel", to prevent officials from accurately determining where they were prior to their arrival. There is an urgent need to identify practicable techniques that, if implemented, would substantially improve the ability of officials to detect "broken travel".

Most States, including all but one of those surveyed, do not conduct immigration control of transit or transfer passengers who remain within the international zone of the airport. Nor are such controls required by the relevant international standards. A foreign terrorist fighter can therefore travel through three or more countries without being asked to present travel documents. The Executive Directorate considers that to be a global systemic shortfall, which should be addressed as a matter of urgency.

Only five of the States surveyed required advance passenger information or passenger name records. In visa-free or visa-upon-arrival regimes, such systems may offer the only meaningful way to identify potential foreign terrorist fighters.

2. Law enforcement

Priorities for law enforcement include: the centralized and coordinated exchange of information at the national level, the breaking down of "silo thinking" among law enforcement agencies and the urgent need for an operational 24/7 alert system that enables users to share information immediately with front-line officers, including immigration officials and customs authorities.

3. Countering incitement to terrorism, including through the Internet

Nearly all the States surveyed have taken steps to prohibit by law incitement to commit a terrorist act under their criminal laws as called for by Security Council resolution 1624 (2005). Those measures can contribute significantly to stemming the flow of foreign terrorist fighters, who are often spurred to action by calls to terrorist violence made by others, whether in person or through the Internet or other social media. Certain restrictions on the right to freedom of expression, subject to strict requirements, may legitimately be applied, including in cases of incitement to terrorist acts. Some States' legal mechanisms do not appear to have proper limitations on restricting expression, making their restrictions impermissible. Several States are making active efforts to engage more directly with community leaders and religious authorities in order to present a united front against those seeking to recruit individuals and incite terrorist violence.

4. Criminalization

The Executive Directorate has identified as a high priority the adoption by States of comprehensive criminal offences to prosecute preparatory or accessory acts conducted in the State with the aim of committing terrorist acts outside the State's territory. Only 5 of the 21 States reviewed had introduced such legislation. A further high priority is ensuring the existence of criminal laws to allow the prosecution of individuals who travel or attempt to travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training. Many of the 21 States have not yet fully criminalized those acts. The States reviewed have generally criminalized the provision of training, but not its receipt. That may be because, whereas the former is provided for in several regional instruments, the latter was first introduced in resolution 2178 (2014).

5. Financing foreign terrorist fighters

Although it is premature to expect that States would have reviewed existing mechanisms and introduced new mechanisms specifically designed to disrupt and prevent financial support to foreign terrorist fighters, most have introduced mechanisms to disrupt and prevent the provision of financial support to terrorists, and those mechanisms can be applied to foreign terrorist fighters. There remain concerns about the capacity of States to freeze terrorist assets in accordance with resolution 1373 (2001).

There is a risk that the widespread influence of ISIL may provoke attacks by self-radicalized terrorists acting alone or in tiny cells. In that regard, the Executive Directorate is concerned that only 12 of the 21 States had introduced terrorism-financing offences covering the financing of both a terrorist organization and an individual terrorist. Better implementation of measures to detect the illicit physical cross-border transportation of currency should be considered, since at least 1 of the 21 States has reported to the Executive Directorate on the recruitment of its citizens by foreign terrorist recruiters promising financial rewards and cash to fund foreign travel. Only 10 of the 21 States have such measures largely or fully in place.

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I. Introduction

1. The present report is the first in a series intended to support the work of the Counter-Terrorism Committee to identify principal gaps in Member States' capacities to implement resolutions 1373 (2001) and 1624 (2005) that may hinder States' abilities to stem the flow of foreign terrorist fighters, as well as to identify good practices and contribute to the facilitation of technical assistance, as requested by the Security Council in paragraph 24 of its resolution 2178 (2014). The conclusions drawn are preliminary in nature, and based on the analysis of an initial group of 21 States. The second and third reports will incorporate data gathered from a larger number of States, allowing for detailed regional and thematic analysis and the formulation of evidence-based and risk-based recommendations on ways to address systemic shortfalls. Future reports will also discuss ways to address recruitment, challenges posed by Internet and communications technologies, exit and entry screening, returning foreign terrorist fighters and other issues. In the coming months, the reports will produce a detailed road map to assist in the building of capacity to resist the threat of foreign terrorist fighters.

2. Foreign terrorist fighters pose an acute and growing threat. They increase the intensity, duration and intractability of conflicts and may pose a serious threat to their States of origin, the States they transit and the States to which they travel, as well as States neighbouring zones of armed conflict in which foreign terrorist fighters are active, such as Jordan, that as a result are affected by serious security burdens and often need to commit massive resources to combat the threat, and which are, therefore, themselves victims of terrorism. The threat of foreign terrorist fighters may affect all regions and Member States, even those far from conflict zones. International networks have been established by terrorists and terrorist entities among States through which foreign terrorist fighters and the resources to support them have been channelled back and forth.

3. Addressing the threat posed by foreign terrorist fighters requires comprehensively addressing the underlying conditions that are conducive to the spread of terrorism, including by preventing radicalization to terrorism; suppressing recruitment; inhibiting foreign terrorist fighter travel; disrupting financial support to foreign terrorist fighters; countering violent extremism; countering incitement to terrorism; promoting political and religious tolerance, economic development and social cohesion and inclusiveness; ending and resolving armed conflicts; and facilitating the reintegration and rehabilitation of returning foreign terrorist fighters.

A. Defining foreign terrorist fighters

4. The Counter-Terrorism Committee Executive Directorate has identified 67 Member States most affected by the acute and growing threat posed by foreign terrorist fighters, defined in Security Council resolution 2178 (2014) as individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training, including in connection with armed conflict.

B. Identification of affected States

5. The 67 Member States were prioritized on the basis that they are States of origin, transit and/or destination, or States neighbouring zones of armed conflict in which foreign terrorist fighters are active, for foreign terrorist fighters recruited by and joining entities such as the Islamic State in Iraq and the Levant (ISIL); the Al-Nusrah Front and all other cells, affiliates, splinter groups and derivative entities of Al-Qaida; and including the Abu Sayyaf Group; Al-Shabaab; Boko Haram; Lashkar-e-Tayyiba; Jemmah Islamiya; and other organizations. Paragraph 14 of resolution 2178 (2014) draws particular attention to the plight of those States. On the basis of its continuous dialogue with States, the Executive Directorate considers as "destination States" several States located outside the region in which ISIL and the Al-Nusrah Front are currently active because they attract foreign terrorist fighters to other organizations on the list established and maintained by the Al-Qaida Sanctions Committee. It is likely that more such States will be identified in subsequent reports, which will also address the foreign terrorist fighter situation at the regional and subregional levels. It should also be noted that several affected States fall into two or more of the above categories.

6. The States addressed by the present report are: Afghanistan, Albania, Algeria, Bosnia and Herzegovina, Egypt, India, Indonesia, Jordan, Lebanon, Libya, Malaysia, Maldives, Mali, Morocco, Nigeria, Pakistan, the Philippines, Qatar, Saudi Arabia, Tunisia and Turkey.

II. Report methodology

7. Using responses to questions in its existing assessment tools, together with others developed specifically for the task that focus on foreign terrorist fighters, the Executive Directorate has mapped in the present report the principal gaps for only 21 of the most affected States, which were identified through its dialogue with States. It is expected that the recommendations made in the present report will evolve as more States are added to the analysis. Identification and analysis of the gaps will benefit from the collection of further evidence and may even change as more States are added. The second report will add to the present report 25 more States for a total of 46 States, and the third report, to be submitted in September 2015, will complete the review of all 67 States.

8. In order to avoid repetitiveness in the compilation of the present study, the Executive Directorate has adopted a "periodical" approach. In other words, the structure of the reports will be broadly consistent, but the contents will vary. The present report takes a thematic approach to the affected States, identifying and analysing the crucial legal and policy issues that States should address in order to stem the flow of foreign terrorist fighters. The second report will focus on regional analysis and analyse in more detail the particularities of each region and the required measures. The third report will include information contained in the previous reports, adding information and analysis of more States. It will also focus on the good practices identified throughout the process and make recommendations for further actions to help strengthen capacities to address the foreign terrorist fighter threat.

9. Each report will also contain a section on issues, trends and developments, which the Executive Directorate will bring to the attention of the Committee in accordance with its mandate under 2178 (2014) and paragraph 5 of resolution 2129 (2013). Those are findings that the Executive Directorate considers to be worthy of further attention and action and will include ways to address recruitment, challenges posed by Internet and communications technologies, exit and entry screening, returning foreign terrorist fighters and other issues.

A. Evidence-based approach

10. The survey was conducted by Executive Directorate experts using information acquired during the Committee's visits to States and other forms of dialogue with States, including responses to questions submitted directly to the States as part of the survey, as well as information gathered for completion of the detailed implementation survey and overview of implementation assessment prepared for each Member State. The Executive Directorate also wrote to all the States concerned requesting their input. The Committee recently visited Malta (October 2014), France (November 2014), Sri Lanka (November 2014), the Philippines (December 2014), Mali (February 2015), the Niger (February 2015), Turkey (February 2015), Cameroon (March 2015), Tunisia (March 2015), Uzbekistan (April 2015), Italy (May 2015) and Oman (May 2015). Future reports will include the outcomes of those and other visits.

11. The survey also draws on threat analysis provided in the course of the Executive Directorate's dialogue with its partners, including the Monitoring Team of the Security Council Committee established pursuant to resolutions 1267 (1999) and 1989 (2011) concerning Al-Qaida and associated individuals and entities and other Security Council expert groups, the Council of Europe, the Financial Action Task Force, the International Office for Migration, the International Criminal Police Organization (INTERPOL) and the United Nations Office on Drugs and Crime.

B. Risk management

12. In conducting the analysis, the Executive Directorate has for the first time adopted a risk-based approach aimed at facilitating capacity-building tailored to each State's perception of its own needs. The huge diversity of affected States in terms of their size and population, the nature of the various threats posed by foreign terrorist fighters to particular States, as well as States' relative capacities and vulnerabilities to address the threats, makes a "one-size-fits-all" approach impractical.

13. States should develop a response to the foreign terrorist fighter threat based on their own particular national security concerns, rather than on a fixed template that might have little relevance to their situations. The size of a State alone is a simple yet crucial indicator that some counter-terrorism measures may be of more relevance than others. For example, the Executive Directorate's assessments have shown that large States have a greater need for sophisticated coordination mechanisms for national inter-agency data exchange than small States do, where meaningful information exchange at the operational level can be relatively easy to achieve.

14. Nevertheless, one of the great strengths of the Executive Directorate assessment process is its consistency. The same questions are asked of all States. That has the benefit of allowing rigorous yet granular conclusions to be drawn on a regional and global basis in accordance with agreed criteria. The Executive Directorate is developing, in the present report, a methodology that preserves the impartiality of the assessment process while allowing for the development of a tool that can provide practical answers for individual States on how to proceed: a proposed road map that will enable States and their international partners to build capacity in a meaningful way. The Committee already prioritizes certain steps in its reports on its visits to States. The intention here is to develop and implement that approach in a more systematic way.

15. In order to prioritize their conclusions, Executive Directorate experts cross-referenced findings about the implementation of specific measures, ranked on six levels from "Yes" to "No information", with a "priority" rating ranked on three levels: low, medium and high. The concept of "priority" is intended to indicate how important the particular measure is for the security of the State. During its country visits, the Committee makes priority recommendations tailored specifically to States' particular circumstances. The addition of the "priority" rating is proving to be an effective approach that will assist States in implementing a more effective, risk-based approach to implementation of their counter-terrorism measures. The Executive Directorate will develop the tool further in the coming months.

16. Some of the figures included in the present report also feature accumulated data that combine the "implementation" rating and the "priority rating". That has the benefit of offering visual clarity, although some of the most revealing data is obscured. The non-accumulated figures, therefore, offer a more granular approach.

III. Foreign terrorist fighters: issues, trends and developments

17. Security Council resolution 2178 (2014) underlines that the increasing threat posed by foreign terrorist fighters is part of the emerging issues, trends and developments related to resolutions 1373 (2001) and 1624 (2005) that, in paragraph 5 of resolution 2129 (2013), the Security Council directed the Executive Directorate to identify. The present section of the report will consider the longer-term risks posed by foreign terrorist fighters, the crucial importance of improving exchange of information mechanisms and the particular vulnerability of small States.

A. Demographics

18. Accurate and reliable data on the number of foreign terrorist fighters is impossible to obtain. In November 2014, the Monitoring Team estimated the number to be between 15,000 and 20,000, with most travelling to join ISIL, while recognizing that the total could be as high as 30,000 (see S/2014/815, para. 14). The Executive Directorate has gathered official figures from States, where available. The table below contains the officially acknowledged number of foreign terrorist fighters who have recently travelled to Iraq and/or the Syrian Arab Republic from the States surveyed.

Officially acknowledged number of foreign terrorist fighters who have recently travelled to Iraq and/or the Syrian Arab Republic

Country	*Foreign terrorist fighters*
Tunisia	3 000
Turkey	1 300
Morocco	1 200
Maldives	200
Algeria	170
Malaysia	60
Indonesia	50
Pakistan	0
Qatar	0
Philippines	0
Egypt	State does not possess accurate information
Jordan	State does not possess accurate information
Libya	State does not possess accurate information
Mali	State does not possess accurate information
Afghanistan	Insufficient information
Albania	Insufficient information
Bosnia and Herzegovina	Insufficient information
India	Insufficient information
Lebanon	Insufficient information
Nigeria	Insufficient information
Saudi Arabia	Insufficient information

B. Risks associated with foreign terrorist fighters

19. The foreign terrorist fighter phenomenon is far from new. Experience gained in past conflicts, such as those in the Horn of Africa, Afghanistan and other regions of the world, can and should be utilized to address the current threat of foreign terrorist fighters. Nevertheless, the current movement of foreign terrorist fighters to fight with ISIL and other groups is created, encouraged and sustained by certain newer phenomena which arguably make the current threat qualitatively different from those that have occurred in the past.

20. First, the activities of foreign terrorist fighters are facilitated by rapidly changing Internet and communications technologies, an issue that will be addressed in greater depth in future reports. Recruitment is often carried out over the Internet through social networking sites and chatrooms. The speed of transition from initial interest to radicalization, to commitment, to action and, ultimately, to joining a foreign terrorist group has accelerated rapidly. The average recruitment age is also younger and women, more than ever before, are being drawn in greater numbers into zones of armed conflict as foreign terrorist fighters (see S/2015/123, para. 14).

21. Second, according to the Financial Action Task Force, ISIL, in particular, represents a new form of terrorist organization where funding is central and critical to its activities. Its primary sources of revenue are mainly derived from illicit proceeds from its occupation of territory, rather than external donations, and include bank looting and extortion, control of oil fields and refineries, kidnap for ransom and robbery of economic assets. The need by ISIL for vast resources to maintain financial management of its territory creates pressure to seize additional territory in order to exploit its resources, and it is not clear whether that will be sustainable over time.[1] Foreign terrorist fighters are a small but significant source of funding, and methods have ranged from simple access to bank accounts in home countries with an ATM card to the use of *hawala*-type arrangements to access funds and movements of cash. More significantly, if foreign terrorist fighters are not paid by terrorist organizations to fight, then they may be self-funded through such means as proceeds of crime, social benefits, bank overdrafts and donations from families, friends and supporters, sent by cash and wire transfers.[2] The patterns are dynamic and rapidly changing, and developments in digital mobile communications technology are likely to facilitate greater opportunities for the transfer of funds but also greater opportunities for their interception.

22. The risk posed by foreign terrorist fighters to societies is multifaceted. Previously localized conflicts have become international and their impact has become less predictable owing to the increased diversity among those involved. The risks and concerns raised by countries neighbouring zones of armed conflict, in particular, suggest that the threat of terrorist acts by a range of terrorist organizations, including but not confined to ISIL and the Al-Nusrah Front, is rapidly changing and will not be fully geographically contained; that there appears to be virtually no short-term possibility of ending certain conflicts; and that a significant longer-term risk will derive from "alumni" foreign terrorist fighters upon their return to their own countries or upon their arrival in third countries.

C. Returning foreign terrorist fighters

23. The destiny of returning foreign terrorist fighters, including those who return to their countries of origin and those who choose to travel to third countries, is a key challenge. Foreign terrorist fighter networks within ISIL and the Al-Nusrah Front already threaten a number of States other than Iraq and the Syrian Arab Republic. There are concerns that foreign terrorist fighters may already be returning to their countries of origin, bringing with them terrorist techniques deployed by ISIL. Expert participants in a recent Executive Directorate seminar on bringing terrorists to justice, for example, reported that as many as 72 cases involving terrorism in France were linked to the conflict in the Syrian Arab Republic. That represented an increase of around 200 per cent in less than a year (see S/2015/123, para. 15). An attack involving chlorine gas, carried out in Jakarta on 23 February 2015, may have involved a technique regularly employed in the Syrian Arab Republic and Iraq, but

[1] Financial Action Task Force, *Financing of the terrorist organization Islamic State in Iraq and the Levant (ISIL)* (Paris, 2015), p. 5.

[2] Ibid., case study 4.

never before used in Indonesia.[3] The terrorist attack on the Jewish Museum of Belgium in Brussels on 24 May 2014 was reportedly carried out by an ISIL terrorist who had returned from the Syrian Arab Republic.[4]

24. There is currently limited available data concerning the number of fighters expected to return to their countries of origin or to third countries, including conflict zones, and the types of behaviours in which returnees are likely to engage upon their return. However, even if only one in nine returnees does engage in terrorist activities, which is a much-quoted figure from earlier research conducted by Thomas Hegghammer of the Norwegian Defence Research Establishment, the impact could still be significant, particularly for smaller States.

25. There is also a concern that returning foreign terrorist fighters may not merely plot and carry out attacks, but also engage in other forms of support for terrorist activity, including radicalization, recruitment and incitement. What becomes of returning foreign terrorist fighters is therefore a critical question. Although the present report does not deal with returnees or the measures that States need to take in response, including monitoring, prosecution, rehabilitation and reintegration measures, the Executive Directorate recognizes the importance of the topic and will return to it in due course.

D. Exchange of information

26. Effective implementation of measures to stem the flow of foreign terrorist fighters requires an effective flow of information at every level, including nationally, regionally and internationally. The promotion of international cooperation and the exchange of operational information fall squarely within the Committee's mandate under paragraph 3 of resolution 1373 (2001), which defines the types of information that should be exchanged and calls on States to find ways of intensifying and accelerating the exchange of operational information. Paragraph 11 of resolution 2178 (2014) also calls on Member States to improve international, regional and subregional cooperation and increase the sharing of information. There are a number of multilateral tools that can facilitate such cooperation, including several provisions of the United Nations Convention against Transnational Organized Crime, and the Executive Directorate will return to a consideration of such measures and the means by which States might effectively implement them in a future report.

27. The present survey reveals that exchange of information, including international cooperation, national inter-agency flows and the exchange of information between Government agencies and private sector entities such as technology firms, shipping companies and airlines, is one of the key challenges in this area.[5] There may be a causal relationship between inadequate information exchange and the risk of terrorist attack. It should be noted that the five surveyed States in the present review that were

[3] Kate Lamb, "Indonesian police blame jihadis returning from Syria for chlorine bomb", *Guardian*, 25 March 2015. Available from www.theguardian.com/world/2015/mar/25/indonesian-police-blame-jihadis-returning-from-syria-for-chlorine-bomb.

[4] BBC News, "Brussels Jewish Museum killings: fourth victim dies", 6 June 2014. Available from www.bbc.com/news/world-europe-27733876.

[5] On terrorist financing issues, the Financial Action Task Force is working on developing red flags to better identify the funding mechanisms foreign terrorist fighters utilize, which should involve greater domestic cooperation. See Financial Action Task Force, *Financing of ISIL*.

deemed to have few effective measures in place, and with respect to which the strengthening of information exchange was deemed to be a priority concern, have all recently suffered terrorist attacks.

28. Nevertheless, it is important to recognize that in most cases existing mechanisms for national and international information exchange can be deployed to address the foreign terrorist fighter threat. Even though very few States have introduced mechanisms devoted exclusively to the foreign terrorist fighter threat, "reinvention of the wheel" is often neither necessary nor even desirable if robust mechanisms ensuring the timely exchange of information are already in place.

29. The Executive Directorate works with States to promote the sharing of good practices in the exchange of information, and has identified many such practices. Global sporting events have proven to be a useful catalyst for the development of good practices in information-sharing aimed at protecting the movement of people, since the host country is obliged to protect both its own citizens and overseas visitors. States are often at their most resourceful and cooperative in advance of sporting events. In hosting the Olympic and Paralympic Games in London in 2012, the United Kingdom of Great Britain and Northern Ireland developed many good practices aimed at expediting the movement of people while taking all necessary measures to identify and mitigate security risks. As host of the Sochi Games in 2014, the Russian Federation established dedicated multi-agency security coordination for the event. When China hosted the 2008 Olympic and Paralympic Games in Beijing, the authorities reached out to technology companies worldwide for security systems that would protect the events.[6] Japan and the Republic of Korea notably introduced advance passenger information systems in preparation for the Fédération Internationale de Football Association (FIFA) World Cup in 2002, as did Guyana in advance of the cricket World Cup in 2007. That event also resulted in the creation of a "single domestic space" among 10 Caribbean Community member States to facilitate the event.

30. Such events typically involve investment of resources and effort at a level that is unsustainable over the longer term. However they help promote the development of know-how, in particular in the coordination of information exchange, and that can have a lasting effect on safety and security, in particular with respect to the movement of persons.

31. In its dialogue with States, the Executive Directorate prioritizes issues relating to exchange of information and stresses the need for national inter-agency coordination, as well as international and regional cooperation. It also continues to identify ways to help States take advantage of emerging technologies to strengthen border controls while also respecting the right to privacy set forth in article 12 of the Universal Declaration of Human Rights and article 17 of the International Covenant on Civil and Political Rights. The Executive Directorate seeks to understand the challenges that new technologies can present to security, as well as the ways in which they can help promote security. The Executive Directorate will continue to work with the private sector to facilitate the use of new technologies in building the capacity of high-risk, low-capacity States to prevent terrorism in accordance with international law, in

[6] Candidate host States are required to give security guarantees: see olympic.org/Documents/Reports/EN/en_report_1078.pdf.

particular international human rights law, international refugee law and international humanitarian law.

E. Small States

32. Although the vast majority of small States globally appear not to be facing a foreign terrorist fighter threat, those that are affected may be particularly vulnerable to sustained, well-resourced terrorist threats deriving from returning foreign terrorist fighters. Of the 21 States reviewed in the present report, 6 may be classed as small States. One is a small island developing State that is economically dependent on tourism. The inclusion of the State on the initial list of affected States was the result of official briefings received by the Executive Directorate during a country visit conducted in November 2014. Its Government estimates that around 200 fighters have departed from its territory to fight in the Syrian Arab Republic, many with their families. That number is equivalent to a force of 192,000 departing the United States of America. The foreign terrorist fighters are reportedly radicalized by foreigners who target isolated islands with small populations and promise financial rewards for travelling to the Syrian Arab Republic to fight. Returning foreign terrorist fighters therefore pose a serious national security threat beyond the risk of terrorist acts. A single terrorist attack in a resort area could shake confidence in such States and deter tourists from visiting. In the event that returning foreign terrorist fighters and their supporters were actually able to seize territory, the State might not be able to withstand such an offensive. Tourism, the only realistic source of gross domestic product for such States, would likely be eliminated. Moreover, some small island developing States, if overwhelmed, could be used as beachheads from which to attack neighbouring States.[7] The disproportionately positive impact that well-managed and well-deployed technical assistance can have on the counter-terrorism architecture of small States is also worth highlighting. Vulnerabilities can often be more rapidly addressed and more effectively resolved than in larger States.

F. Human rights dimension

33. States should take measures to protect populations from terrorism and to deliver justice. Criminal justice systems must also ensure that they protect people's personal security, their access to the administration of justice and the participation of all in decision-making, and that is especially true in the context of programmes and policies to prevent terrorism. As States revise legislation and policy to stem the flow of foreign terrorist fighters, it is important to recognize that the protection of human rights and the rule of law contribute to the countering of terrorism. Arbitrary arrests, incommunicado detentions, torture and unfair trials fuel a sense of injustice and may in turn encourage terrorist recruitment, including of foreign terrorist fighters.

[7] The Executive Directorate has identified another small State as being similarly affected. The State was identified by the regional point of contact in the Caribbean shared by the Counter-Terrorism Committee and the Executive Directorate with the Security Council Committee established pursuant to resolution 1540 (2004), and the case will be analysed in a future report. The Executive Directorate is also communicating with a third small State after neighbouring States reported the departure of large numbers of foreign terrorist fighters for the Syrian Arab Republic.

34. Virtually all the measures advocated in the present report as effective tools to stem the flow of foreign terrorist fighters will require that States consider carefully certain human rights issues. In that connection, at least three areas appear to deserve special mention.

35. Some States are developing responses that include the revocation of travel documents, and other measures to prevent travel, as tools with which to counter the foreign terrorist fighter threat. That can be a primary line of defence against the threat posed by foreign terrorist fighters. It also, practically by definition, raises the question of the right to liberty of movement, and to be able to leave any country, as set forth in article 13 of the Universal Declaration of Human Rights and article 12 of the International Covenant on Civil and Political Rights. At the same time, as set out in article 12 of the Covenant, that right may be subject to certain restrictions that are provided for by law, are necessary to protect national security, public order, public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the Covenant.

36. Many measures under consideration by States for dealing with the foreign terrorist fighter threat involve the transfer within and between States of personal information of individuals, as well as the use of surveillance and other investigative techniques that involve implications regarding the right to privacy. However, as with the right to liberty of movement, the right to privacy, as set forth in article 12 of the Universal Declaration of Human Rights and article 17 of the International Covenant on Civil and Political Rights, is not absolute. Even though arbitrary or unlawful interference with that right is prohibited under article 17 of the Covenant, the right is, as the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism has noted, "flexible enough to enable necessary, legitimate and proportionate restrictions to the right" (see A/HRC/13/37, para. 15). In considering the creation or sharing of new forms of personal data collection and usage, including in particular, but not limited to, "watch lists" or "no fly lists", States should collaborate to develop a set of objective criteria for the placement of an individual on such a list, as well as processes to ensure that the personal data contained in such lists is complete, accurate and up to date. States should also develop a common understanding as to how such information should be used, for example, whether its purpose is to prevent the person from boarding a plane or to facilitate his or her detention or arrest upon arrival. Such information should not be used in a manner that facilitates arbitrary or unlawful detention.

37. Lastly, some States regard the criminalization of foreign terrorist fighter travel as an important tool in efforts to stem the flow of foreign terrorist fighters. The issue of criminalization, among others, was recently highlighted by the Office of the United Nations High Commissioner for Human Rights, when it noted that "it should not be presumed, for example that every individual travelling to an area of conflict has criminal intent or is supporting or engaging in criminal terrorist activity" (see A/HRC/28/28, para. 49). Probably more than with many offences, owing to the anticipatory nature of the acts at issue, States will face challenges in clarifying in law and demonstrating in court the elements necessary to obtain convictions for the offences specified in resolution 2178 (2014). In all cases, it will be incumbent upon them to ensure respect for the principle of legality and the presumption of innocence, neither of which, according to the Human Rights Committee, may be subject to derogation by States parties to the International Covenant on Civil and

Political Rights, even in time of emergency, as well as for the principles of due process and fair treatment.

38. Other human rights issues relevant to the foreign terrorist fighter threat are discussed elsewhere in the present report.

IV. Systemic shortfalls: thematic analysis of Executive Directorate data

39. Section IV examines the mechanisms that could be used by the first group of 21 affected States surveyed to counter the foreign terrorist fighter threat. Many of the existing mechanisms to implement resolutions 1373 (2001) and 1624 (2005) can be adapted to implement resolution 2178 (2014). In some areas, for example the prevention of inter-State travel by foreign terrorist fighters and issues relating to criminalization, specific steps will need to be undertaken in order to ensure that the provisions of the latter resolution are implemented.

A. Preventing inter-State travel of foreign terrorist fighters

Departure

40. A very effective way to implement resolution 2178 (2014) and prevent the creation of foreign terrorist fighters is to ensure that those who attempt to travel to become foreign terrorist fighters are prevented from leaving their country of origin and/or residence to travel abroad to conflict zones. For that reason, States can put in place practical measures to identify people who are suspected of attempting to become foreign terrorist fighters and to prevent them from leaving to perpetrate, plan, prepare or participate in terrorist acts or to provide or receive terrorist training abroad. The results of the Executive Directorate survey indicate that 17 of the 21 reviewed States appear to have few or no operational measures in place to prevent the travel abroad of citizens and/or residents who are suspected of becoming foreign terrorist fighters. Moreover, the same number of States does not appear to have effective measures in place to ensure that front-line officers tasked with regulating the movement of persons across borders are provided with updated information to conduct effective evidence-based travel risk assessment and screenings to help identify foreign terrorist fighters, although the Executive Directorate is aware that several States have successfully prevented the initial exit of potential foreign terrorist fighters through interception at borders. There is therefore a clear need to strengthen awareness-raising and capacity-building measures in those areas.

Broken travel

41. Foreign terrorist fighters routinely use evasive travel patterns, or "broken travel", which is the deliberate use of techniques to break long-distance travel into multiple segments such that it becomes difficult to ascertain travel history and travel origin, to prevent border authorities and counter-terrorism officials from accurately determining where they were prior to their arrival in a particular State. Preventing "broken travel" is therefore critical to stemming the flow of foreign terrorist fighters across borders and preventing foreign terrorist fighters who have been to conflict zones from returning home as well-trained operators to carry out attacks or from

moving on to States neighbouring zones of armed conflict. As far as the Executive Directorate is aware, no public or private sector entity has yet taken steps to understand and analyse that challenge. There is therefore an urgent need to strengthen the capacity of border authorities and counter-terrorism officials to accurately determine where a traveller has been before arriving in a particular country. The present survey rates slightly more than half the surveyed States as "partially" successful or better with respect to recording the entry/exit of all passengers. However, in the absence of accurate record-keeping, it will be difficult to enhance our understanding of "broken travel" by reconstructing the manner in which foreign terrorist fighters travel in and out of transit States and conflict zones.

Immigration control

42. Only 1 of the 21 States surveyed conducts immigration control of transit or transfer passengers who remain within the international zone of the airport. The remainder offer transit without visa arrangements for such persons, with few or no immigration control measures in place. The lack of such procedures in most States is understandable given that there is no international requirement for States to ensure immigration controls of transit or transfer passengers under annexes 17 (Security) or 9 (Facilitation) to the Convention on International Civil Aviation. Nevertheless, the current vulnerability in that area allows foreign terrorist fighters to freely transit through numerous States, including major hubs for air travel, without ever being scrutinized by immigration officials or checked against local and international watch lists.

43. With the exception of Afghanistan and Maldives, all 21 States provide some type of visa-free arrangement with other States. The number of partner States included in such arrangements range from 4 (Egypt) to 163 (Malaysia). Ten of the 21 States provide visa-upon-arrival arrangements. Among States providing such arrangements, Nigeria offers visa-upon-arrival arrangement for one State and Maldives issues visas-upon-arrival for all States. Visa-free or visa-upon-arrival arrangements are ideal for passenger travel and trade-facilitation, but should be accompanied by appropriate threat-assessment-based scrutiny at the point of visa-upon-arrival issuance and/or immigration control in order to ensure that foreign terrorist fighters are not allowed to enter or transit through the State any more easily than in regimes requiring the procurement of visas in advance of arrival.

44. Even under the best of circumstances, immigration officials are given an extremely brief period of time in which to determine whether a passenger should be allowed to enter the country. In order to make best use of that limited time, it is our recommendation that front-line immigration officers be provided with a combination of key tools and appropriate training in order to better identify potential foreign terrorist fighters. Such key tools include, inter alia, advance passenger information, passenger name records, INTERPOL databases, national and international watch lists and information obtained through intelligence sources.

Use of advance passenger information

45. In view of the importance of ensuring access to all those information sources, it was worrying to learn that only five of the States included in the survey required airlines to submit advance passenger information, according to available data from the International Air Transport Association. We anticipate that there we will be

significant improvements in those numbers over the next few years, since resolution 2178 (2014) calls on Member States to require that airlines operating in their territories provide advance passenger information to the appropriate national authorities in order to detect the departure from or attempted entry into or transit through their territories, by means of civil aircraft, of individuals on the list established and maintained by the Al-Qaida Sanctions Committee. Advance passenger information is particularly useful, since immigration officials are in most instances able to obtain a passenger list well in advance of the arrival of the aircraft. The extra time can be used effectively to cross-check the passenger list against existing lists of individuals who may be foreign terrorist fighters.

INTERPOL I-24/7

46. On a more positive note, the Executive Directorate was able to ascertain that 14 States possess immigration screening systems that are connected in some manner at the front line to the INTERPOL I-24/7 global police communications system and stolen and lost travel documents database. Improved and consistent use of such INTERPOL databases, combined with measures to strengthen the capacity of front-line officials to utilize effective interview techniques that take advantage of all available risk indicators, should make it much more difficult in the future for persons or travel documents included in the databases to cross national borders without being detected.

Smuggling of persons

47. The survey indicates that only 10 of the 21 States have some legal measures in place to criminalize the smuggling of persons, including foreign terrorist fighters. Even among States that do criminalize the smuggling of persons, the penalties for doing so are relatively light. There are therefore relatively few consequences for persons and criminal entities, including terrorist groups, seeking to evade immigration controls to bring in individuals across State borders.

Refugee dimension

48. Resolution 2178 (2014) calls upon States to ensure, in conformity with international law, in particular international human rights law and international refugee law, that refugee status is not abused by the perpetrators, organizers or facilitators of terrorist acts, including by foreign terrorist fighters. The establishment of a functioning refugee status determination system is an effective way to recognize refugees who require international protection and exclude those, such as terrorists, who are undeserving of such protection. Twelve of the surveyed States have some form of determination procedure in place, but only three were given a rating of "largely" successful or better.

Porous borders

49. Besides the issues covered by specific questions on foreign terrorist fighters, there are several issues in the area of border management that need further consideration. One of the biggest challenges is to stem the flow of foreign terrorist fighters by addressing the issue of "porous borders", where States have little or no resources to deploy effective border controls. To address that shortfall, the most vulnerable parts of those border areas must be urgently identified and the technical

assistance needs of the States concerned addressed in order to facilitate delivery of the required assistance. States should take advantage of coordinated border-management methods as they relate to porous borders, incorporate relevant information and communications technologies, work closely with border communities and develop effective regional cross-border cooperation.

B. Law enforcement

50. A law enforcement response to the foreign terrorist fighter threat requires a holistic approach, both at the national and transnational levels, in order to prevent, detect and suppress the flow of foreign terrorist fighters. Because one of the main characteristics of the foreign terrorist fighter threat is mobility, there is a need for close law enforcement cooperation beyond the national level. Moreover, without the support of the intelligence community, law enforcement responses will lack vital information. Law enforcement can be effective only if the information related to foreign terrorist fighters is accurate, complete and timely. The effectiveness of the law enforcement response will also depend on the level of direct availability of such information to all front-line officers, especially at border crossings, including immigration services and customs authorities. It will also rely on early detection, intervention and prevention, which will be achieved most effectively when law enforcement works closely with local communities, through such measures as community policing.

51. The survey's law enforcement questions cover areas relating to (a) coordinated and centralized information/intelligence sharing, (b) the use of available information, (c) training and (d) international cooperation. A particular concern in that regard is the ability to deny or revoke passports or other travel documents as an effective means to stop foreign terrorist fighters from travelling. Only 1 of the 21 affected States reviewed appears to confiscate passports to prevent people suspected of attempting to become foreign terrorist fighters from travelling. Limited use of that measure may be linked to the legal complexities involved and the time required to introduce the necessary regulations. Lack of political will may also be a factor. It should be recalled that, even though revocation of travel documents may temporarily reduce the number of potential foreign terrorist fighters travelling abroad, it is unlikely to resolve the problem in the long term. In that regard, there exist numerous avenues that would allow a sufficiently motivated individual to legally or illegally secure the travel documents required to facilitate travel, which calls into question the effectiveness of that measure.

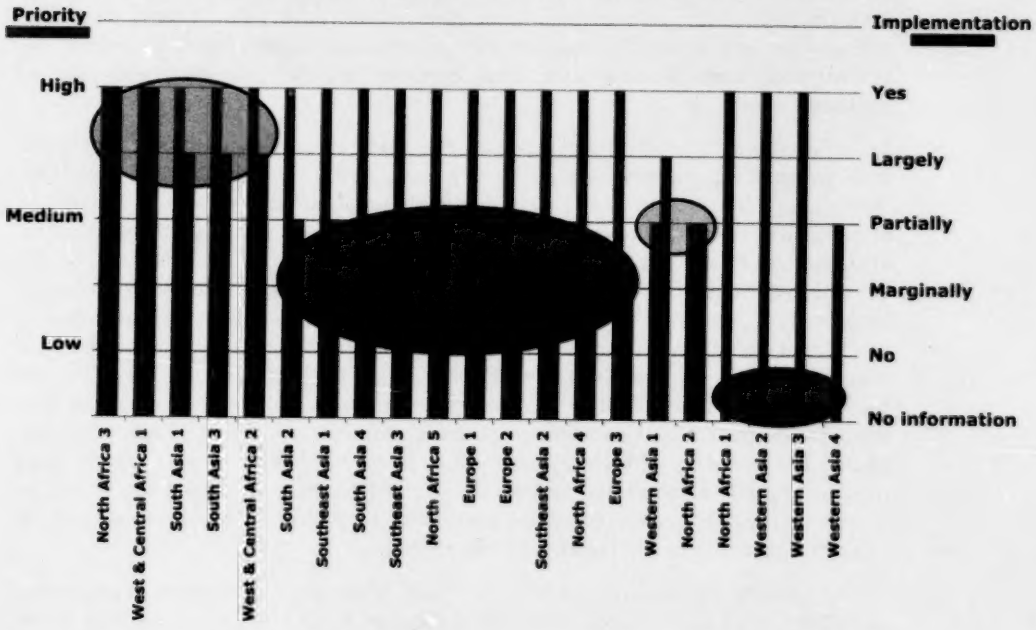
52. Related to the issue of revocation or denial of passports is the issue of revocation of citizenship of dual citizens. Although revocation is not a subject of the survey, the Executive Directorate is aware that a number of States have begun to consider or implement measures to revoke the citizenship of dual citizens suspected of being foreign terrorist fighters and of those planning to travel abroad as foreign terrorist fighters. Such measures effectively prevent the return of such individuals to their State of former citizenship, but they may also simply pass on the associated problems to the individual's State of remaining citizenship. Action by both States of citizenship to revoke may lead to concerns with respect to statelessness. There are also serious due process concerns that may be associated with the manner in which decisions are made to revoke citizenship. It would also be necessary to establish a national mechanism

that allows for the exchange of information between law enforcement services and administrative bodies to guarantee a synchronized approach.

53. The inability of most States to centralize and coordinate the exchange of information at the national level also undermines law enforcement responses. For almost half the Member States surveyed, either no such cooperation takes place or there is no information available as to whether and how it takes place. That is worrying, since "silo thinking", combined with the failure to share information/intelligence, undermines the capacity of Member States to identify foreign terrorist fighters and to implement the necessary measures to prevent their departure or transit to fight abroad as foreign terrorist fighters. Figure 1 illustrates the survey's findings. Areas highlighted in orange and red indicate a situation that requires improvement based on the ratio between the identified priority level and the related implementation rate.

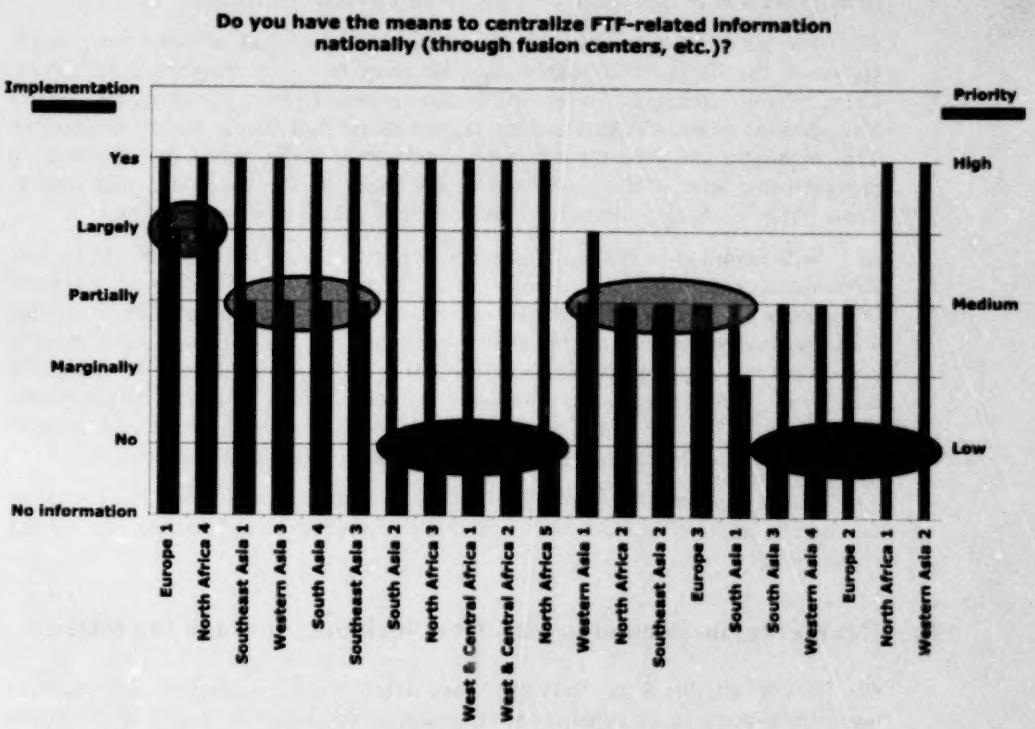
Figure 1

Are law enforcement agencies provided with relevant data acquired by intelligence, particularly from external sources on FTFs?



Abbreviation: FTF, foreign terrorist fighter(s).

Figure 2



Abbreviation: FTF, foreign terrorist fighter(s).

54. The same shortfalls are observed in relation to Member States' capacity to provide timely information on foreign terrorist fighters at the national and transnational levels (see figure 2). If available information cannot be shared immediately with front-line officers, it will be virtually impossible to identify potential foreign terrorist fighters before they have crossed the border into another State. It is therefore essential to establish a functioning 24/7 alert system.

55. Providing information on lost or stolen travel documents to the respective INTERPOL databases is a well-established practice in most of the Member States surveyed. However, there remain considerable differences in implementation levels. The use of lost or stolen travel documents remains a widespread modus operandi for crossing borders. It is therefore important that States develop more capacity in that area, in particular with respect to INTERPOL databases, which are accessible to all its members. Moreover, even if a State has taken steps to revoke passports and/or citizenship, individuals carrying such passports may still be able to travel if the information is not made available to front-line immigration officers and other States.

56. International cooperation is another key requirement for law enforcement in monitoring and detecting foreign terrorist fighter activities. Most of the 21 States reviewed engage in such cooperation, including through the exchange of foreign terrorist fighter-related information across borders. However, it is difficult to

evaluate the quality of those contacts, as the related questions do not provide a detailed account of the type of cooperation or information exchange.

57. The need for transnational information-exchange has already been noted. However, specific consideration should be given to the exchange of intelligence. Using reliable intelligence to prevent foreign terrorist fighters from crossing borders also requires guarantees that actions taken against individuals can be challenged. That highlights the need for actionable intelligence to be turned into evidence to prevent difficulties relating to potential disclosure of the underlying intelligence. The value of exchanging indicators and warnings should also be considered.

58. With regard to individual Member States, it is a cause for concern that, for one third of States that are either countries of origin or countries of destination, (a) there is currently no reliable information available about how law enforcement is dealing with the foreign terrorist fighter phenomenon, and (b) the implementation level is considered to be no higher than "marginal". It is understandable that most States are developing their capacity to effectively address foreign terrorist fighter-related matters, but it is clear that much work needs to be done in the short and medium term to strengthen States' law enforcement response to foreign terrorist fighters.

59. Lastly, it should be noted that the lack of up-to-date and specific information on foreign terrorist fighters makes it difficult to effectively address the related challenges.

C. Countering incitement to terrorism, including through the Internet

60. Nearly all the States surveyed have taken steps to prohibit incitement to terrorism under their criminal laws, as called for by resolution 1624 (2005). Those measures can contribute significantly to stemming the flow of foreign terrorist fighters, since foreign terrorist fighters are often spurred to action by calls to terrorist violence made by others, either in person or through the Internet or other social media. Certain restrictions on the right to freedom of expression, subject to strict requirements, may legitimately be applied, including in cases of terrorist incitement.

61. However, in some cases, legal measures taken against incitement to commit terrorist acts appear to violate States' obligations under international human rights law. In the cases of at least four of the States surveyed, United Nations human rights mechanisms have expressed concern over criminal sanctions reportedly applied against messages that do not rise to the level of incitement, including messages of human rights defenders. There is also a question of proportionality. In at least three States, incitement to terrorism laws provide for exceedingly harsh punishment, including sentences of as long as 30 years or even life imprisonment and, in one case, imposition of the death penalty. Those situations raise important human rights issues and create a risk that counter-incitement to terrorism measures could prove counterproductive, contributing to further radicalization and alienation among parts of the population.

62. Several States have implemented other measures to counter incitement motivated by extremism and intolerance, including through the Internet. At least six produce or facilitate assertive counter-messaging designed to refute terrorist narratives. The subjects of the counter-narratives encompass many different issues,

ranging from interpretations of religious texts to the realities of life in conflict zones and the impact of terrorist acts on their victims. Concerning the terrorist messages themselves, many States seek to take tactical advantage by monitoring them and using them for purposes of intelligence gathering. Some also take more direct action and close websites down, often in cooperation with the private sector, which is becoming more involved in reviewing criminal communications by terrorists and their supporters.

63. Several States are also making active efforts to engage more directly with non-governmental actors, such as local community leaders and religious authorities, in order to present a united front against those seeking to recruit individuals to terrorism and incite terrorist violence. For instance, one State drafted a comprehensive strategy to counter violent extremism that includes the creation of youth vocational training and employment as a flagship intervention, whereas another State deems its efforts at reconstruction and development of traditionally marginalized areas a part of its strategy to counter violent extremism. As for initiatives related to community policing, at least three States explicitly tasked its law enforcement entities with building trust and good communication between law enforcement agents and local communities and their leaders. Moreover, at least seven States have reportedly taken steps towards overseeing religious schools' curriculum design and delivery. At least two States currently facilitate interfaith dialogue at the national level, while Jordan, for example, has been active in launching international and regional interfaith initiatives. A few other States offer training programmes for religious leaders aimed at fostering tolerance and at least one State has advanced concrete efforts to empower women religious leaders.

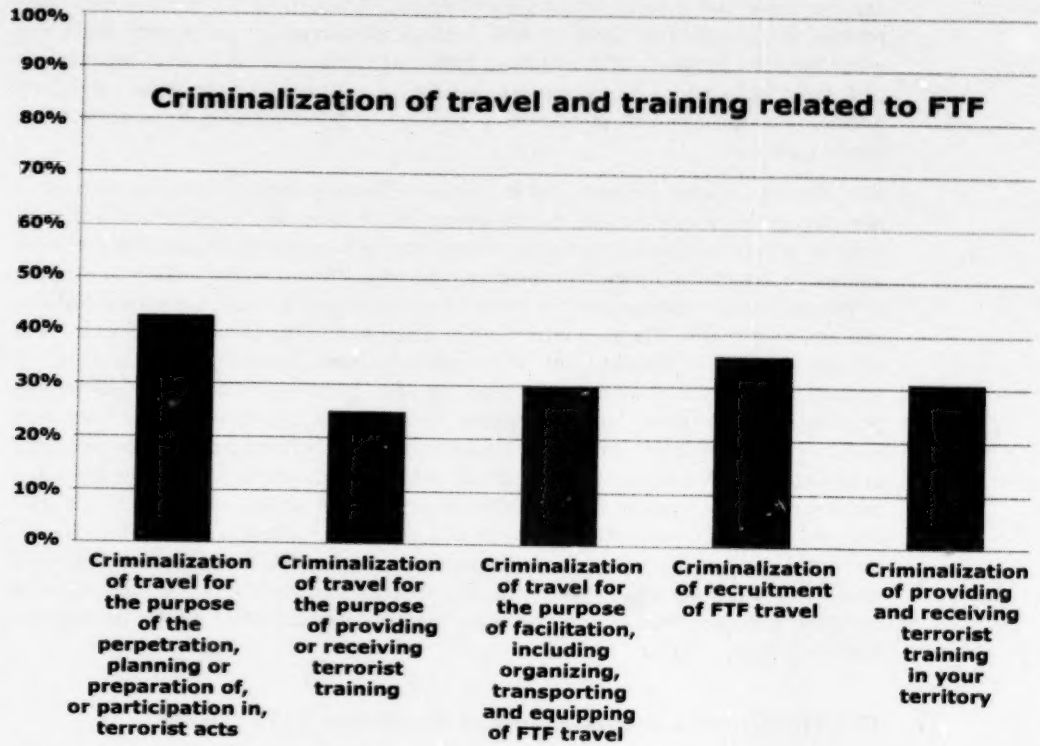
D. Criminalization requirements of resolution 2178 (2014)

64. In reviewing the first group of affected States, the Executive Directorate focused its inquiry on the criminalization aspects of resolution 2178 (2014). A detailed thematic analysis of the challenges faced by Member States in the prosecution of foreign terrorist fighters was submitted to the Counter-Terrorism Committee and subsequently submitted by the Committee to the Security Council (S/2015/123). The present report should be regarded as a continuation of the Executive Directorate's exploration of the issue. Future reports will focus further on how an impartial, ethical and professional criminal justice system will help stem the flow of foreign terrorist fighters and ensure that human rights are respected and upheld in the pursuit of that endeavour.

65. The Executive Directorate found that the vast majority of assessed Member States (16 of 21) do not have comprehensive criminal offences in place to prosecute preparatory or accessory acts conducted in the State with the aim of committing terrorist acts against other States or their citizens outside the State's territory. The average compliance with the criminalization requirements of the resolution is "partially".

66. In order to obtain a more accurate picture of the specific gaps faced by Member States in criminalizing foreign terrorist fighters, the Executive Directorate separated the criminal justice requirements into five separate elements. Figure 3 shows the level of compliance with each of the five elements.

Figure 3


Criminalization of travel and training related to FTF
100%
90%
80%
70%
60%
50%
40%
30%
20%
10%
0%
Criminalization of travel for the purpose of the perpetration, planning or preparation of, or participation in, terrorist acts
Criminalization of travel for the purpose of providing or receiving terrorist training
Criminalization of travel for the purpose of facilitation, including organizing, transporting and equipping of FTF travel
Criminalization of recruitment of FTF travel
Criminalization of providing and receiving terrorist training in your territory

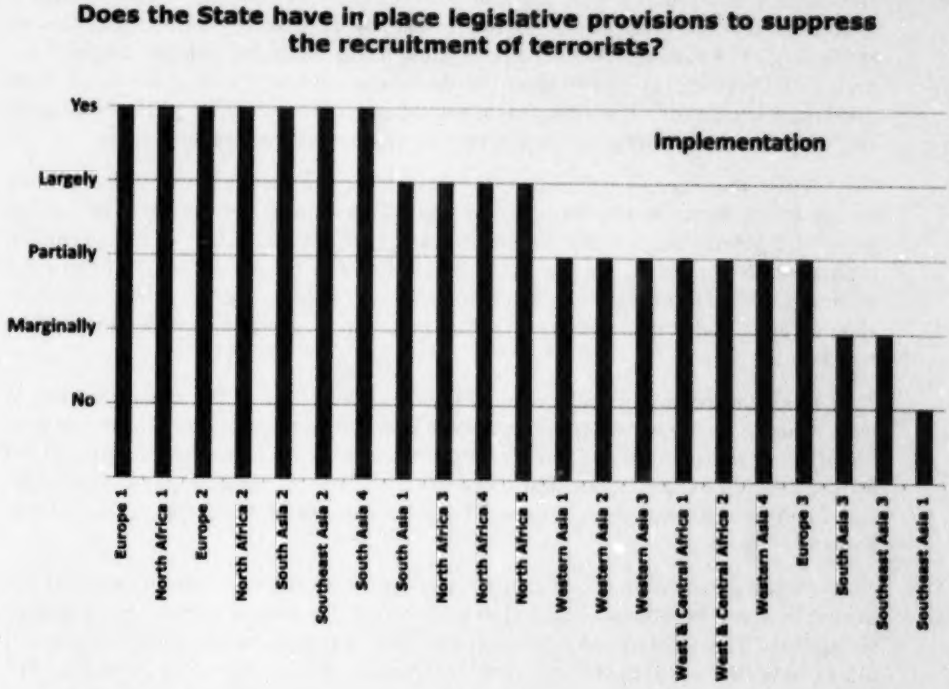
Abbreviation: FTF, foreign terrorist fighter(s).

67. The preliminary information gathered by the Executive Directorate also shows that many of the assessed States have not yet fully criminalized travel of individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts. That is an area of particular concern since, for 16 of the 21 States assessed, the issue is of critical importance. Many are also countries of origin.

68. Three of the 21 countries criminalize facilitation, including organizing, transporting and equipping, of foreign terrorist fighters' travel. Most other countries rely on broad counter-terrorism legislation to cover that requirement. Four States do not have measures in place to criminalize the recruitment of foreign terrorist fighters, and eight do not have measures in place to criminalize the providing and receiving of training.

69. The data reveal that countries generally demonstrate high levels of compliance in criminalizing recruitment for terrorism, as illustrated in figure 4.

Figure 4



70. The high levels of compliance may be attributed to the fact that States are required to suppress recruitment for terrorism by resolution 1373 (2001) and that the efforts of the Counter-Terrorism Committee to promote it have yielded relatively high levels of compliance.

71. The questions relating to providing and receiving training received lower levels of compliance. That may be because other questions are generally perceived to be covered by resolution 1373 (2001) and the phrase "providing or receiving of terrorist training" was first introduced in resolution 2178 (2014).

72. The survey also revealed that "providing training" has been criminalized by more countries than "receiving training" has. That may be because the provision of training is already criminalized by many Member States under existing regional instruments that cover that act or because the more active nature of providing training, compared with the more passive nature of "receiving training", is more easily captured under broader preparatory offences and raises fewer concerns regarding respect for human rights. The Committee could use that information to encourage implementing agencies to focus their programmes on promoting good practices in criminalizing the receiving of training. A good practice recently developed for that purpose is the drafting of an additional protocol to the Council of Europe Convention on the Prevention of Terrorism, which clearly and concisely defines, in its article 3, the offence of receiving training for terrorism.

73. The survey revealed that many of the assessed States rely, in their criminal legislation, on broad or vague definitions, including definitions of terrorism or of

terrorist offences. That not only violates the principle of legality but also diverts law enforcement and prosecutorial attention towards cases that are not violent in nature. It is clear that, in their efforts to implement the criminalization requirements of resolution 2178 (2014), Member States must strike a careful balance between the need to fully cover the requirements of the resolution and the need to refrain from overbroad legislation. The Committee should pay close attention to that challenge and support Member States in their efforts to implement those requirements.

74. While the Executive Directorate is aware of the fact that many States have moved in the direction of adopting new legislation to meet the challenge of foreign terrorist fighters, only a few countries surveyed have enacted specific criminal legislation to implement resolution 2178 (2014), even though for most of them the criminalization requirements of the resolution are of high priority. The Committee should encourage the countries most affected to respond with appropriate legislation.

75. In all the countries analysed in the survey, the office of the prosecutor has at least some capacity. However, except in the cases of five States, the effectiveness of the office is rather limited. There is therefore a need to enhance the authority of the office; develop expertise, including expertise on how to handle complex terrorism cases and in particular foreign terrorist fighter cases; and strengthen technical and human resources.

76. All the assessed States, except for one for which relevant information was not available, have introduced legislation authorizing the use of special investigative techniques. The information gathered does not, however, make clear whether all States have the capacity to use such techniques effectively while providing full respect for human rights and rule of law. The Executive Directorate's past assessments have shown that the effective use of such techniques in counter-terrorism is a global challenge and that many States require assistance in developing effective techniques and mechanisms for ensuring coordination by intelligence, law enforcement and prosecution and respecting rule of law and human rights (see S/2015/123).

77. In assessing the 21 Member States, the Executive Directorate considered basic elements of international cooperation. Its findings show that most of the States in the survey have designated a national central authority for processing requests for mutual legal assistance in criminal matters and for processing extradition requests. In general, those assessed States that did have a designated central authority had also developed and made publicly available guidelines on procedures relating to mutual legal assistance and extradition to inform foreign authorities about requirements.

78. Four of the States surveyed have not yet designated a national central authority for that purpose, however. That is of particular concern because the existence of a designated central authority is essential to international cooperation in criminal matters. With respect to the four States that do not have a national central authority, addressing that issue and providing them with the necessary assistance should be a priority.

E. Terrorist financing

79. The ways in which terrorist organizations secure funding are dynamic and can change rapidly. For now, it would appear that the foreign terrorist fighters moving to join ISIL, in particular, are a relatively small but important source of funding for ISIL. Funding efforts may include foreign terrorist fighters collecting money in their home country for travel, foreign terrorist fighters travelling with funds and diaspora members sending funds to support foreign terrorist fighters, although the financial contributions from such sources are relatively low (see S/2015/123, paras. 31-34).

80. Some foreign terrorist fighters are paid by terrorist organizations, including ISIL, to travel to fight and are financially supported in the country of destination. Terrorist organizations may, therefore, fund the travel and the daily living expenses, training and equipment of foreign terrorist fighters. Officials of one State of those reviewed by the Executive Directorate recently informed the Executive Directorate of the presence of foreign recruiters in its territory who had persuaded its citizens to join ISIL with promises of financial reward in the Syrian Arab Republic.

81. In other cases, foreign terrorist fighters have to pay their own living expenses and may receive funds to that end from their home countries, ranging from several hundred to several thousand dollars. Foreign terrorist fighters continue to access their home bank accounts through the simple use of ATM cards. More ingenious methods have included cases of foreign terrorist fighters fraudulently procuring tax credits to fund their travel and expenses (see S/2015/123, para. 33).

82. Owing to the relatively recent development of the foreign terrorist fighter phenomenon, it is perhaps a little early to expect that States have reviewed existing mechanisms and introduced new mechanisms specifically designed to disrupt and prevent financial support to foreign terrorist fighters. However, most (16 of 21) have developed some mechanisms to disrupt and prevent financial support to terrorists, which may be applied to foreign terrorist fighters. Five assessed countries had few or no mechanisms to address the financing of foreign terrorist fighters. States should be encouraged to review and, if necessary, enhance their existing measures and mechanisms relating to terrorism financing, including the freezing of assets, to respond to the foreign terrorist fighter threat.

83. Only 4 of the 21 States are able to freeze terrorist funds without delay, and 3 others can largely freeze without delay. Twelve States have partial or marginal capacity to do so, and two have no capacity. Considering that it is one of the key requirements of resolution 1373 (2001), the absence of an adequate freezing mechanism is of particular concern. Further efforts should be made to help States establish an operational asset-freezing mechanism, which is essential to the disruption of terrorist financing.

84. Most States have some capacity to exchange financial information with foreign counterparts through their membership in forums such as the Egmont Group, INTERPOL connections, memorandums of understanding or bilateral exchange. Most are able to use those channels to exchange information on foreign terrorist fighter-related matters.

85. National inter-agency information-sharing, in this case financial information, was identified as a major shortfall generally within the affected States. Although no State reviewed has a dedicated national mechanism to ensure that information

regarding foreign terrorist fighters is shared, in a timely manner, by financial intelligence units, customs, law enforcement and other Government agencies involved in countering terrorism financing, several States do have mechanisms to share information concerning terrorism financing across national agencies, and such mechanisms can be used to share information concerning foreign terrorist fighters. Of greater concern is the fact that two countries have only marginal capacity to share information across national agencies, and seven have been assessed to have no capacity to share foreign terrorist fighter information among Government agencies involved in countering terrorism financing.

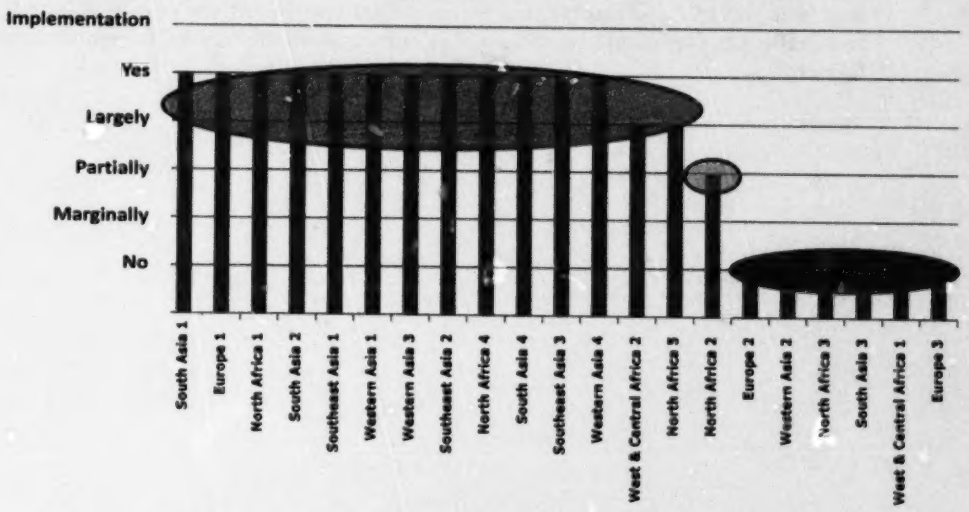
86. Although many States have criminalized the wilful provision or collection of funds for terrorist acts, some States have also introduced legislation to criminalize the financing of the travel of foreign terrorist fighters for terrorism purposes, or the provision or receiving of terrorist training. Twelve States have introduced terrorism-financing legislation that only partially or marginally successfully addresses the financing of foreign terrorist fighter-travel and terrorism-training matters and/or fails to take into account the necessary caveats of the required components of the legislation, such as wilful provision, direct or indirect, intention and knowledge. The assessed countries therefore need to amend their terrorism-financing legislation to comply with the obligation of resolution 2178 (2014).

87. Thirteen of the 21 States have criminalized terrorist financing as a standalone offence, meaning that terrorist financing is criminalized (a) even if the funds have not been used to commit or attempt to commit a terrorist attack, (b) even if funds cannot be linked to a specific terrorist act and (c) specifically and separately from provisions on aiding and abetting. Five others have largely met the above conditions for criminalizing terrorism financing and two others have partially met the conditions. No State has yet modified its legislation to specifically prevent financial support to foreign terrorist fighters and specifically include foreign terrorist fighter-travel in its suspicious transaction report obligations. Only 1 State currently has legislation in place that specifically criminalizes the financing of travel for foreign terrorist fighters, although 11 others have introduced laws that could arguably be applied. The Executive Directorate is concerned, however, that only 12 of the 21 have introduced terrorism-financing offences that cover the financing of both a terrorist organization and an individual terrorist for any purpose. It should also be noted that, despite the introduction of terrorism-financing offences by a number of Member States, very few terrorism-financing cases have been prosecuted worldwide.

88. The foreign terrorist fighter phenomenon is closely related to the increasing incidence of terrorists acting alone or in small cells (see S/2015/123, para. 12). That may be a significant threat related to returning foreign terrorist fighters, who are being exhorted to undertake individual actions in their home countries, and to aspiring foreign terrorist fighters, who may not have acquired the resources to travel or have been prevented from travelling by effective Government action. The Executive Directorate was somewhat concerned, therefore, that only 12 of the 21 States had introduced terrorism-financing offences covering the financing of both a terrorist organization and an individual terrorist (see figure 5).

Figure 5

Does the "terrorist financing" offence in domestic law cover the financing of both an individual terrorist and a terrorist organization?



89. Given that at least one of the 21 Member States has reported to the Executive Directorate on the recruitment of its citizens by foreign terrorist recruiters promising financial rewards and cash to fund foreign travel, the use of declaration or disclosure systems in place to detect the illicit physical cross-border transportation of currency should be considered. Ten States were assessed as "having" or "largely having" such systems in place, whereas 10 others were considered to be only "partially" or "marginally" compliant. One State has no system at all.

V. Initial observations

90. The core message of the present report is that much of the technical work on how to stem the flow of foreign terrorist fighters has already been done. It has been done over the years by States meeting at the United Nations, as well as within the frameworks of other international and regional organizations, to develop the tools to tackle terrorism and other global criminal problems, whether illicit trafficking in narcotic drugs and psychotropic substances, transnational organized crime or corruption. Adaptability does not imply a "reinvention of the wheel" but rather a fresh look at the many existing measures and tools available to States to tackle the challenges posed by foreign terrorist fighters. Resourceful identification and a renewed commitment to the implementation of those measures, and to capacity-building where implementation falls short, will do much to increase States' capacity to stem the flow of foreign terrorist fighters.

91. In producing the present report, the Executive Directorate has identified several important issues that it will cover in more depth in future reports. They include the prevention of radicalization to terrorism and recruitment; analysis of the

existing multilateral legal tools that can facilitate more rapid, direct and operational forms of international cooperation and joint investigations; and measures that can be taken to address the issue of returning foreign terrorist fighters, such as the development of prosecution strategies and policies of reintegration and rehabilitation. The reports, taken as a whole, will provide a comprehensive road map, not just of the measures that States should take but of the priority shortfalls and challenges that should be addressed in order to stem the flow of foreign terrorist fighters.